

BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

In Re: Petition of MCImetro Access Transmission)
Services, LLC for Arbitration of Certain Terms)
and Conditions of Proposed Agreement with)
Farmers Telephone Cooperative, Inc., Home)
Telephone Co., Inc., PBT Telecom, Inc., and)
Hargray Telephone Company, Concerning)
Interconnection and Resale under the)
Telecommunications Act of 1996)

Docket No. 2005-67-C

PETITION OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC
FOR ARBITRATION WITH FARMERS TELEPHONE COOPERATIVE, INC.,
HARGRAY TELEPHONE COMPANY, HOME TELEPHONE CO., INC.,
AND PBT TELECOM, INC., UNDER THE
TELECOMMUNICATIONS ACT OF 1996

REBUTTAL TESTIMONY OF GREG DARNELL

1

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Greg Darnell, and my business address is 6 Concourse Parkway,
4 Atlanta, Georgia, 30328.

5 **Q. DID YOU FILE DIRECT TESTIMONY IN THIS PROCEEDING ON**
6 **BEHALF OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC**
7 **(“MCP”)?**

8 A. Yes.

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 A. Farmers Telephone Cooperative, Inc., Hargray Telephone Company, Home
11 Telephone Co., Inc., and PBT Telecom, Inc. (referred to collectively as the “ITCs”
12 or “RLECs”) filed testimony on May 31, 2005. My testimony rebuts the assertions
13 in the RLECs’ testimony.

14 As in my direct testimony, I have grouped the issues into the following
15 categories:

16 a) Issues concerning the definitions in and scope of the interconnection agreement,
17 the law governing the agreement, the definitions to be used in the agreement,
18 and the extent to which the purpose or scope of the agreement should be limited.
19 Issues #1, #5, #6, #7, #9, #10(a), #11, #12, #15, #17.

20 b) An issue regarding billing notices. Issues #4. (Issue #2 has been resolved by
21 agreement between the parties.)

22 c) Issues concerning calling party identification information. Issues #3, #14 and
23 #16.

- 1 d) Issues regarding the compensation for “virtual NXX” codes for ISP-bound
2 traffic, and for “out-of-balance” traffic. Issues #8, #10(b), #13, #21.
- 3 e) An issue regarding the rates for wholesale services and facilities to be provided
4 by the RLECs. Issue # 20. (As stated previously, issue #19 was withdrawn.)
5 Issue #18 has been resolved by agreement between the parties.
6

7 **Q. WHAT FOUNDATIONAL QUESTION IS RAISED BY THIS**
8 **ARBITRATION THAT SHOULD TROUBLE THE COMMISSION?**

9 A. The foundational question that should trouble the Commission is, why are we having
10 this arbitration? As I stated in my direct testimony, MCI has been able to reach
11 negotiated agreements with independent ILECs (“ICOs”) all over the country, and
12 here in South Carolina, for the interconnection services it needs to fulfill its
13 obligations to Time Warner Cable. As will be further explained in the following,
14 MCI is asking for things that these RLECs already benefit from in their
15 interconnection agreements with BellSouth. As such, the RLECs should agree to
16 what MCI has requested and we should not be having this arbitration.

17
18 **A. THE DEFINITIONS IN, AND SCOPE AND LIMITATIONS OF, THE**
19 **INTERCONNECTION AGREEMENT**
20

21
22 **1. THE LAW GOVERNING THE AGREEMENT**
23

24
25 **ISSUE #1**

26 **Issue:** Should the Agreement state that it is pursuant only to
27 §§ 251 (a) and (b) and 252 of the Act? (GT & C, in the
28 third “whereas” clause, and Interconnection, 1.1)
29

1 **MCI position:** No. Law other than these subsections covers the
2 relationship between interconnecting carriers. MCI
3 has proposed additional language that ensures that
4 the ITCs' asserted rural exemption rights are not
5 prejudiced.
6

7 **ILEC position:** ITCs believe that only the noted subsections of
8 section 251 apply to this agreement.
9

10 **Disputed Language:** [In the GT &C:]

11 WHEREAS, the Parties wish to interconnect their facilities
12 and exchange traffic specifically for the purposes of
13 fulfilling their obligations pursuant to **Sections 251 (a) and**
14 **(b), and 252 of** the Telecommunications Act of 1996 ("the
15 Act").ILEC asserts that it is exempt from the provisions of
16 section 251(c) of the Act, and CLEC has not requested
17 anything from ILEC pursuant to section 251(c). By
18 entering into this Agreement, ILEC does not waive its
19 right to assert that it is exempt from section 251(c), and
20 CLEC does not waive its right to assert that 1) ILEC is
21 not exempt from section 251(c), or 2) that if ILEC is
22 exempt, its exemption should be terminated. Purpose. The
23 Parties agree that the rates, terms and conditions contained
24 within this Agreement, including all Attachments, comply
25 and conform with each Parties' obligations under **Sections**
26 **251 (a) & (b), and 252 of** the Act.
27

28 [In the Interconnection Attachment, section 1.1]

29 This Agreement also addresses Transit Traffic as described
30 in Section 2.2 below. This Attachment describes the
31 physical architecture for the interconnection of the Parties
32 facilities and equipment for the transmission and routing of
33 Telephone Exchange Service traffic between the respective
34 End User Customers of the Parties pursuant to **Sections**
35 **251 (a) and (b) of** the Act.
36

37 **Q. DOES THE RLECS' TESTIMONY REFER TO THE LANGUAGE**
38 **PROPOSED BY MCI?**

1 A. No. Mr. Meredith complains of MCI's reference to the "entire
2 [Telecommunications] Act" (p. 4) but does not address MCI's proposal that the
3 agreement state that, notwithstanding the lack of any assertion by the RLECs that
4 they are entitled to a "rural exemption," the RLECs do not waive any rights to
5 assert exemption from 47 U.S.C. section 251(c). It is a fair inference that this
6 omission concedes that MCI's proposed language should satisfactorily resolve
7 this issue. Moreover, the RLECs have not claimed a rural exemption under 47
8 U.S.C. 251(f).

9

10 **Q. DO THE RLEC'S HAVE INTERCONNECTION AGREEMENTS ("ICAs")**
11 **WITH BELLSouth THAT ARE EXECUTED PURSUANT TO "THE**
12 **ACT"?**

13 A. Yes. Hargray, Home and PBT all have ICAs with BellSouth that state that they
14 were executed pursuant to the Act, including all of sections 251 and 252. These
15 agreements can be found at
16 http://cpr.bellsouth.com/clec/docs/all_states/index7.htm and, as explained further
17 in this testimony, these agreements provide many of the same terms, conditions
18 and protections that MCI is requesting in this arbitration.¹ The RLECs should be
19 willing to put MCI on equal footing with BellSouth, but they refuse to do so.

20

¹ See also, rebuttal exhibit GJD-2 attached.

1 Q. IS 47 U.S.C. SECTION 252(c), WHICH REFERENCES ARBITRATION
2 OF OPEN ISSUES UNDER 47 U.S.C. SECTION 251, THE EXCLUSIVE
3 “STANDARD” BY WHICH THIS AGREEMENT SHOULD BE
4 GOVERNED? (MEREDITH, P. 5)

5 A. No. As discussed in my direct testimony, under section 252 (e) (2) the
6 Commission may reject a *negotiated* portion of the agreement only if it
7 discriminates against other telecommunications carriers, or is not consistent with
8 the public interest. Thus the legal authority pursuant to which interconnection
9 agreements are negotiated, and under which the provisions that interconnection
10 agreements are performed, is very broad. In resolving any issue by *arbitration*,
11 the Commission must ensure that such resolution and conditions meet the
12 requirements of and FCC regulations pertaining to section 251, and establish any
13 rates for interconnection, services, or network elements according to section 252
14 (d). Section 252 (e)(3) also states that:

15 Notwithstanding paragraph (2), but subject to section 253
16 of this title, nothing in this section shall prohibit a State
17 commission from establishing or enforcing other
18 requirements of State law in its review of an agreement,
19 including requiring compliance with intrastate
20 telecommunications service quality standards or
21 requirements.
22

23
24 **2. LIMITATIONS OF THE PARTIES’ LIABILITY**

25
26
27 **ISSUE #5**

28 **Issue:** Should the parties’ liability to each other be limited, and
29 should they indemnify each other for certain claims?
30 (GT&C, sections 22.2-22.4)
31

1 **MCI position:** No. Neither party should escape liability for
2 wrongs it commits in the eyes of the law.
3

4 **ILEC position:** Yes. Such limitation of liability should be for their
5 customer's actions, for their own intentional torts,
6 and for their own gross negligence and willful
7 misconduct.

8 **Disputed Language:**

9 **22. LIABILITY AND INDEMNITY**

10 **22.1 DISCLAIMER**

11 **EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY**
12 **IN THIS AGREEMENT, EACH PARTY MAKES NO**
13 **REPRESENTATIONS OR WARRANTIES TO THE OTHER**
14 **PARTY CONCERNING THE SPECIFIC QUALITY OF ANY**
15 **SERVICES OR FACILITIES IT PROVIDES UNDER THIS**
16 **AGREEMENT. EACH PARTY DISCLAIMS, WITHOUT**
17 **LIMITATION, ANY WARRANTY OR GUARANTEE OF**
18 **MERCHANTABILITY OR FITNESS FOR A PARTICULAR**
19 **PURPOSE, ARISING FROM COURSE OF PERFORMANCE,**
20 **COURSE OF DEALING, OR FROM USAGES OF TRADE.**

21 **22.2 Indemnification**

22 **22.2.1 Each Party (the "Indemnifying Party") shall indemnify and**
23 **hold harmless the other Party ("Indemnified Party") from and**
24 **against loss, cost, claim liability, damage, and expense (including**
25 **reasonable attorney's fees) to customers and other third parties for:**

26 **(1) damage to tangible personal property or for personal**
27 **injury proximately caused by the negligence or willful**
28 **misconduct of the Indemnifying Party, its employees, agents or**
29 **contractors;**

30 **(2) claims for libel, slander, or infringement of copyright**
31 **arising from the material transmitted over the Indemnified**
32 **Party's facilities arising from the Indemnifying Party's own**
33 **communications or the communications of such Indemnifying**
34 **Party's customers; and**

35 **(3) claims for infringement of patents arising from**
36 **combining the Indemnified Party's facilities or services with,**
37 **or the using of the Indemnified Party's services or facilities in**
38 **connection with, facilities of the Indemnifying Party.**

1 Notwithstanding this indemnification provision or any other provision
2 in the Agreement, neither Party, nor its parent, subsidiaries, affiliates,
3 agents, servants, or employees, shall be liable to the other for
4 Consequential Damages as defined in Section 22.3.3 of this
5 Agreement.

6 22.2.2 The Indemnified Party will notify the Indemnifying Party
7 promptly in writing of any claims, lawsuits, or demands by customers
8 or other third parties for which the Indemnified Party alleges that the
9 Indemnifying Party is responsible under this Section, and, if
10 requested by the Indemnifying Party, will tender the defense of such
11 claim, lawsuit or demand.

12 (1) In the event the Indemnifying Party does not promptly
13 assume or diligently pursue the defense of the tendered action,
14 then the Indemnified Party may proceed to defend or settle
15 said action and the Indemnifying Party shall hold harmless the
16 Indemnified Party from any loss, cost liability, damage and
17 expense.

18 (2) In the event the Party otherwise entitled to
19 indemnification from the other elects to decline such
20 indemnification, then the Party making such an election may,
21 at its own expense, assume defense and settlement of the claim,
22 lawsuit or demand.

23 (3) The Parties will cooperate in every reasonable manner
24 with the defense or settlement of any claim, demand, or
25 lawsuit.

26 22.3 Limitation of Liability

27 22.3.1 No liability shall attach to either Party, its parents,
28 subsidiaries, affiliates, agents, servants, employees, officers, directors, or
29 partners for damages arising from errors, mistakes, omissions,
30 interruptions, or delays in the course of establishing, furnishing,
31 rearranging, moving, terminating, changing, or providing or failing to
32 provide services or facilities (including the obtaining or furnishing of
33 information with respect thereof or with respect to users of the services or
34 facilities) in the absence of gross negligence or willful misconduct.

35 22.3.2 Except as otherwise provided in Section 22, no Party shall be
36 liable to the other Party for any loss, defect or equipment failure caused
37 by the conduct of the first Party, its agents, servants, contractors or
38 others acting in aid or concert with that Party, except in the case of gross
39 negligence or willful misconduct.

1 **22.3.3** In no event shall either Party have any liability whatsoever to
2 the other Party for any indirect, special, consequential, incidental or
3 punitive damages, including but not limited to loss of anticipated profits
4 or revenue or other economic loss in connection with or arising from
5 anything said, omitted or done hereunder (collectively, "Consequential
6 Damages"), even if the other Party has been advised of the possibility of
7 such damages, except to the extent that such damages are caused by the
8 Party's gross negligence or willful misconduct

9 **22.4** **Intellectual Property**

10 Except as required by applicable law, neither Party shall have any
11 obligation to defend, indemnify or hold harmless, or acquire any
12 license or right for the benefit of, or owe any other obligation or have
13 any liability to, the other based on or arising from any claim, demand,
14 or proceeding by any third party alleging or asserting that the use of
15 any circuit, apparatus, or system, or the use of any software, or the
16 performance of any service or method, or the provision or use of any
17 facilities by either Party under this Agreement constitutes direct or
18 contributory infringement, or misuse or misappropriation of any
19 patent, copyright, trademark, trade secret, or any other proprietary
20 or intellectual property right of any third party.

21
22 **Q. THE RLECS CONTINUE TO CONTEND THAT MCI SHOULD**
23 **INDEMNIFY THEM FOR TORT CLAIMS SUCH AS FOR**
24 **DEFAMATION OR COPYRIGHT INFRINGEMENT, ARISING FROM**
25 **THE ACTIONS OF MCI'S CUSTOMERS. (MEREDITH, P. 11) HOW DO**
26 **YOU RESPOND?**

27 **A.** It would be unfair and unjust for the Commission to compel a party to this
28 agreement to indemnify the other for claims arising from the torts, particularly the
29 intentional wrongdoing, of the party's customers over whom the party has no
30 ownership or control. Further, the RLECs do not explain why the alleged
31 "common" occurrence of these limitations of liability in commercial agreements

1 entered into voluntarily between parties has any relevance to an arbitration in
2 which the Commission is being asked to compel their inclusion in the agreement.

3 **Q. THE RLECS ARGUE THAT CONTRACTUAL LIMITATIONS OF**
4 **LIABILITY ARE APPROPRIATE BECAUSE THE RLECS ARE**
5 **REQUIRED BY LAW TO INTERCONNECT WITH MCI. (MEREDITH,**
6 **P. 13) NOTWITHSTANDING THE OBLIGATION TO INTERCONNECT,**
7 **ARE THE CONTRACTUAL LIMITATIONS SOUGHT BY THE RLECS**
8 **“FAIR”?**

9 A. No. The RLECs seek to absolve themselves from their negligence in their
10 dealings with MCI, and, as to the RLECs’ intentional wrongdoing (including
11 “gross” negligence), they seek to be relieved from liability for all damages other
12 than the actual, “direct” damages that are the inevitable consequences of their
13 actions. Thus the RLECs seek to avoid “special” i.e., “economic,” damages, such
14 as loss of profits, for their intentional misconduct. The RLECs also seek to
15 absolve themselves of any liability regarding use of the intellectual property of
16 MCI. These limitations are not reasonable, especially when the RLECs and their
17 customers, like MCI and its customers, will receive financial benefit from
18 interconnection. To the extent that an RLEC customer alleges injury or damages
19 arising from services or facilities provided by an RLEC pursuant to this
20 agreement, the RLECs instead should seek to limit their liability **“against loss,**
21 **cost, claim liability, damage, and expense (including reasonable attorney's**
22 **fees) to customers”** (see section 2.22) by appropriate tariff provisions.

23

1 **Q. DO THE RLECS' ICAs WITH BELLSouth CONTAIN LANGUAGE**
2 **SIMILAR TO WHAT MCI HAD PROPOSED FOR SECTION 22.3.3?**

3 A. Yes. Some of this language can be found in Hargray's ICA with BellSouth, at
4 attachment 1, Section 9.4, Home Telephone's ICA with BellSouth, at attachment
5 1, Section 5.3 and PBT's ICA with BellSouth, at attachment 1, section 8.4. As
6 such, these RLECs have already found MCI's position in this issue under
7 arbitration to be reasonable.

8
9
10 **ISSUE #6**

11
12 **Issue:** Should End User Customer be defined as only customers
13 directly served by the Parties to the contract? (GT&C,
14 Glossary, section 2.19)

15
16 **MCI position:** No. End User Customers may be directly or
17 indirectly served. The Act expressly permits either
18 direct or indirect service. (See Issue No. 10 (a)).
19

20 **ILEC position:** MCI must be providing service directly to End Users
21 physically located in the LATA. No law says ITCs cannot
22 limit interconnection agreements to non-wholesale
23 arrangements. (See Issue No. 10 (b)).
24

25 **Disputed Language:** A retail business or residential end-user subscriber
26 to Telephone Exchange Service provided directly or
27 indirectly by either of the Parties.
28

29 **ISSUE #10 (a)**

30
31 **Issue:** Should MCI have to provide service (a) only directly to
32 end users? (Interconnection, section 1.1)
33

34 **MCI position:** (a) No. End User Customers may also be indirectly served
35 by the Parties through resale arrangements. The Act
36 requires both Parties to the contract to allow resale. The
37 same "directly or indirectly" language is used in section

2.22 of ITCs' model contract for defining interexchange customers. The ITCs thus do not attempt to limit the resale ability of interexchange carriers, and there is no reason why they should try to do so regarding local exchange.

ILEC position:

MCI must be providing service directly to End Users physically located in the LATA. No law says ITCs cannot limit interconnection agreements to non-wholesale arrangements. Also, the Commission's rulings on "virtual NXX traffic" apply to ISP-bound traffic too. The FCC's ISP Remand Order never discussed ISP FX arrangement specifically so ITCs do not believe the FCC's compensation regime for ISP-bound traffic applies.

Disputed Language:

This Interconnection Attachment sets forth specific terms and conditions for network interconnection arrangements between ILEC and CLEC for the purpose of the exchange of IntraLATA Traffic that is originated by an End User Customer of one Party and is terminated to an End User Customer of the other Party, **where each Party directly provides Telephone Exchange Service to its End User Customers physically located in the LATA.** This Agreement also addresses Transit Traffic as described in Section 2.2 below. This Attachment describes the physical architecture for the interconnection of the Parties facilities and equipment for the transmission and routing of Telephone Exchange Service traffic between the respective End User Customers of the Parties pursuant to **Sections 251 (a) and (b) of the Act.**

ISSUE #15

Issue:

Does the contract need the limit of "directly provided" when other provisions discuss transit traffic, and the issue of providing service directly to end users also is debated elsewhere? (Interconnection, section 3.1)

MCI position:

No. This language is unnecessary and confusing in light of other provisions of the contract.

ILEC position:

Yes. ITCs want to make clear that this contract is only for traffic directly exchanged between the parties' directly served End Users.

Disputed Language: Dedicated facilities between the Parties' networks shall be provisioned as two-way interconnection trunks, **and shall only carry IntraLATA traffic originated or terminated directly between each Parties End User Customers.** The direct interconnection trunks shall meet the Telcordia BOC Notes on LEC Networks Practice No. SR-TSV-002275

ISSUE #17

Issue: Should the Parties be providing service directly to End Users to port numbers? (Number portability, section 1.1)

MCI position: No. This is not required for any industry definition of LNP. MCI is certified to do LNP for the End Users that indirectly or directly are on its network. Concerns that some resellers may not be telecommunications carriers or must provide the same type telecommunications services provided prior to the port is an illegal limit on what entities MCI can provide wholesale telecommunications services. The FCC has even allowed IP-Enabled (VoIP) service providers to obtain numbers directly without state certification See the FCC's CC Docket 99-200 order (Adopted: January 28, 2005 Released: February 1, 2005) granting SBC Internet Services, Inc. (SBCIS) a waiver of section 52.15(g)(2)(i) of the Commission's rules. And MCI know no law requiring that the same type of Telecommunications Service provided prior to the port has to be provided. That is antithetical to the goals of competition.

ILEC position: ITCs believe that LNP can only be done for telecommunications providers directly serving end users. ITCs added to first version prohibiting LNP for customers of MCI's wholesale telecommunications services a provision allowing resale buy only by telecommunications providers and only when same type of telecommunications services as provided before the port is involved.

Disputed Language: The Parties will offer service provider local number portability (LNP) in accordance with the FCC rules and regulations. Service provider portability is the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

1 Under this arrangement, the new Telecommunications
2 Service provider must directly provide Telephone
3 Exchange Service or resell an end user local exchange
4 service through a third party Telecommunications
5 Service provider to the End User Customer porting the
6 telephone number. The dial tone must be derived from a
7 switching facility that denotes the switch is ready to receive
8 dialed digits. In order for a port request to be valid, the
9 End User Customer must retain their original number
10 and be served directly by the same type of
11 Telecommunications Service subscribed to prior to the
12 port.
13

14 Q. DO THE RLECS APPEAR TO AGREE THAT THERE IS A SUBJECT
15 COMMON TO ISSUES #6, #10(A), #15 AND #17?

16 A. Yes, as stated by Mr. Meredith at page 15 of his testimony.

17 Q. HAVE THE RLECS CITED ANY LAW THAT “THE CARRIER
18 DIRECTLY SERVING THE END USER CUSTOMER IS THE ONLY
19 CARRIER ENTITLED TO REQUEST
20 INTERCONNECTION”?(MEREDITH, P. 16)

21 A. No, and they cannot.

22 First, there is no such limitation in the Act. The Act broadly expresses the policy
23 of and public interest in interconnection. Moreover, the regulations implementing
24 the Act state:

25 Sec. 51.100 General duty.

26
27 (a) Each telecommunications carrier has the duty:

28 (1) To interconnect directly or indirectly with the facilities and
29 equipment of other telecommunications carriers.
30
31
32

1
2 MCI is a telecommunications carrier and a local exchange carrier (“LEC”). It is
3 seeking to interconnect with the RLECs.

4

5 Second, finding no prohibition *against* interconnection for the purpose of
6 providing services to another carrier, the RLECs attempt to turn the Act on its
7 head, and thus contend that there is no specific authority *for* MCI to interconnect
8 for the purpose of providing services to another carrier. But the fact that MCI
9 seeks to provide services for another carrier, i.e., Time Warner Cable Information
10 Service (“TWCIS”), does not prevent interconnection. If it did, no carrier could
11 connect for the purpose, for example, of providing wholesale services to other
12 carriers, or for the purpose of providing a transiting function, or for the purpose of
13 providing exchange access.

14

15 Third, as concerns the voice over Internet Protocol (“VoIP”) service offered by
16 TWCIS, the regulations implementing the Act state:

17 Sec. 51.100 General duty.

18

19 (b) A telecommunication carrier that has interconnected or gained
20 access under sections 251(a)(1), 251(c)(2), or 251(c)(3) of the Act, may
21 offer information services through the same arrangement, so long as it
22 is offering telecommunications services through the same arrangement as
23 well.

24 As stated in my direct testimony, interconnection will enable MCI to offer
25 telecommunications services. The fact that some Internet Protocol (“IP”)-
26 originated traffic may be provided “through the same arrangement” does not

1 excuse the RLECs from the duty to interconnect. Further, as stated by Home
2 Telephone in its agreement with BellSouth, traffic exchanged under the
3 interconnection agreement should include “all traffic, regardless of the transport
4 protocol method”.²

5 **Q. ARE THE DUTIES IMPOSED BY 47 U.S.C. SECTION 251 LIMITED TO**
6 **INTERCONNECTION SOLELY BETWEEN TWO CARRIERS, EACH**
7 **SERVING END USER CUSTOMERS? (MEREDITH, PP. 17-18)**

8 A. No. There is no such “bilateral” limitation. Section 251 (b), which Mr. Meredith
9 cites, refers to obligations of a LEC to “competing providers” generally, and
10 nowhere references “parallel duties between two carriers.” Mr. Meredith’s
11 statement that a VoIP service provider is “not required to provide dialing parity or
12 local number portability” is irrelevant; the interconnection agreement is between
13 the RLECs and MCI, and the parties to the agreement are required to provide
14 dialing parity and local number portability. (In this respect it is interesting that,
15 although the RLECs deny having the obligation to provide local number
16 portability in issue #17, the RLECs here imply that they, unlike TWCIS, must
17 provide local number portability; otherwise, the relationship between TWCIS and
18 the RLECs could not be said to be not “bilateral” or “parallel.”)

19 Moreover, paragraph 1034 of the FCC’s Local Competition Order, which
20 Mr. Meredith cites, refers merely to reciprocal compensation obligations of
21 interconnecting carriers and does not limit interconnection to that between two
22 carriers, each of which must serve only end users.

² See, Home Telephone Interconnection agreement with BellSouth, Attachment 3, Section 8.1.6.

1 **Q. IN THIS REGARD, MR. MEREDITH CITES 47 C.F.R. SECTION**
2 **51.701(E) FOR AUTHORITY THAT THE RECIPROCAL**
3 **COMPENSATION OBLIGATION “SPECIFICALLY REFERS TO THE**
4 **DIRECT RELATIONSHIP OF THE CARRIER TO THE END USER**
5 **CUSTOMERS IN THE EXCHANGE OF TRAFFIC,” AND THAT “THE**
6 **TRAFFIC EXCHANGED WITH MCI [SHOULD] INCLUDE ONLY**
7 **INTRALATA TRAFFIC DIRECTLY GENERATED BY MCI END USER**
8 **CUSTOMERS.” (MEREDITH, PP. 17-18) DO YOU AGREE?**

9 A. No. Section 51.701(e) refers to compensation paid by one carrier to another
10 carrier “for the transport and termination on each carrier’s network facilities of
11 telecommunications traffic that originates on the network facilities of the other
12 carrier.” Nothing in the regulation limits its application to traffic “directly
13 generated by [the interconnecting carrier’s] customers.” Moreover, the term
14 “telecommunications traffic that originates on the network facilities of the other
15 carrier” does not, as Mr. Meredith implies, exclude an obligation to interconnect
16 for the purpose of exchanging traffic that terminates as Internet Protocol, anymore
17 than it excludes an obligation to interconnect for the purpose of transmitting ISP-
18 bound traffic. Indeed, as discussed with reference to issue #8, there is no
19 limitation that interconnection arrangements carry merely “local” traffic. While
20 MCI has voluntarily agreed not to do so with its arrangements with these RLECs,
21 interLATA and IntraLATA traffic can be put on local interconnection trunks.
22 “Telecommunications traffic” is not defined by the FCC’s regulations.
23 “Telecommunications,” however, is defined by 47 U.S.C. 153 (43), and “means

1 the transmission, between or among points specified by the user, of information of
2 the user's choosing, without change in the form or content of the information as
3 sent and received." MCI does not change the "form or content of the
4 information" that is sent or received by it.

5 **Q. MR. MEREDITH REFERENCES A "PROPOSED ORDER" OF THE**
6 **ILLINOIS COMMERCE COMMISSION. (MEREDITH, PP. 19-20)**
7 **WHAT IS YOUR RESPONSE?**

8 A. First of all, the fact that the RLECs have attempted to support their position with a
9 "proposed" order is telling. This proposed order is not a final order of the Illinois
10 Commerce Commission ("ICC"). In contrast to the ICC proposed order, the Ohio
11 commission, as referenced in my direct testimony, actually issued an order. Also,
12 the New York Public Service Commission in its Order Resolving Arbitration
13 Issues, *Petition of Sprint Communications Company L.P., Pursuant to Section*
14 *252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an*
15 *Intercarrier Agreement with Independent Companies*, Case 05-C-0170 (May 18,
16 2005),³ rejected the same arguments raised by the RLECs. In that case ICOs
17 argued that section 251 (b) of the Act does not require them to interconnect with
18 Sprint, which had entered into a business arrangement with TWCIS to offer voice
19 service in competition with the ICOs. The ICOs similarly attempted to limit the
20 definition of "end user" to only the end users of Sprint. As in the Ohio decision,
21 the New York commission found that Sprint's agreement to provide TWCIS with

³ By clicking on <http://www.dps.state.ny.us/fileroom.html>
and typing in the docket number of this case, one may retrieve the New York commission's decision.

1 interconnection, number portability order submission, E911 and directory
2 assistance, among other services, meets the definition of “telecommunications
3 services:

4 While Sprint may act as an intermediary in terminating traffic
5 within and across networks, the function that Sprint performs is no
6 different than that performed by other competitive local exchange
7 carriers with networks that are connected to the independents.
8 Sprint meets the definition of “telecommunications carrier” and,
9 therefore, is entitled to interconnect with the independents pursuant
10 to section 251(a). We find unpersuasive the independents’ claim
11 that their section 251(b) duties as local exchange carriers are not
12 triggered because Sprint is not an ultimate provider of end user
13 services.
14

15 Order Resolving Arbitration issues, p. 5.

16 Thus the proposed order of the ICC erroneously distinguishes between
17 providing telecommunications to carriers, and providing services to end users.
18 Providing service to telecommunications carriers is not regarded by the proposed
19 order as services to the “public,” under the alleged authority of a court ruling that
20 involved an application for authority to operate a private submarine cable. In
21 addition to the fact that MCI’s interconnection agreement does not limit the
22 services provided by MCI to TWCIS, and the fact that MCI does intend to use the
23 interconnection agreement to serve its own end users, there is no distinction in the
24 law as urged by the proposed order that relates to what MCI plans to do.

25

1 **Q. DOES IT MAKE SENSE FOR INTERCONNECTION FACILITIES TO BE**
2 **RESTRICTED TO TRAFFIC FROM THE INTERCONNECTING**
3 **PARTIES' END USERS?**

4 A. No. Absent indirect connection, every new CLEC would have to interconnect
5 with every other LEC in order to begin to provide business. Such a requirement
6 would significantly drive up the cost of entry, frustrate Congress' intent to reduce
7 entry barriers, hamper rather than facilitate local competition, and protect the
8 ILECs' monopolies. The Act was enacted to "provide for a pro-competitive, de-
9 regulatory national policy framework" by "opening all telecommunications
10 markets to competition". Accordingly, the RLECs' attempt to restrict
11 interconnection traffic to only that from the end users of the interconnecting
12 parties is not sustainable under policy or law. Further, the RLECs' own
13 agreements with BellSouth do not contain such a limitation. In fact, in many
14 places the RLECs' interconnection agreements with BellSouth expressly permit
15 the exchange of traffic generated by third parties.⁴

16
17 **Q. DO THE RLECS REFUTE YOUR DIRECT TESTIMONY WITH**
18 **REGARD TO THE PREVIOUS AGREEMENT BY THEM CONCERNING**
19 **THE LANGUAGE PROPOSED BY MCI?**

⁴ See, Hargray ICA with BellSouth, Attachment 3, sections 9.3, 1.9.2 and 1.10, Home ICA with BellSouth, attachment 3, section 3.1 and 5.2 and PBT ICA with BellSouth attachment 3, section 1.9.2, 1.10 and 8.3.

1 A. No. As stated in my direct testimony, the same “directly or indirectly” language
2 is used in section 2.22 of the RLECs’ model contract to define an End User of
3 InterLATA service.
4

5 **Q. AT PAGES 42 THROUGH 48 OF MR. MEREDITH’S TESTIMONY IT IS**
6 **IMPLIED THERE MAY BE SEVERAL THINGS WRONG WITH THE**
7 **WAY MCI PLANS ON PROVIDING LOCAL NUMBER PORTABILITY.**
8 **WHAT IS YOUR RESPONSE TO THESE STATEMENTS?**

9 A. First, MCI has been able to reach negotiated agreements with many other ICOs all
10 over the United States regarding MCI’s proposed number portability language.
11 There is no legitimate reason why MCI’s proposed language is not reasonable in
12 this case as well. Second, Mr. Meredith cites no rule or law that prohibits MCI
13 from providing number portability service for TWCIS. And finally, Mr.
14 Meredith’s interpretation of the required service provider portability criteria
15 would violate the spirit, intent and letter of the Act.

16 **Q. MR. MEREDITH IMPLIES THAT TWCIS COULD PREVENT AN END**
17 **USER FROM SWITCHING HIS OR HER SERVICE TO ANOTHER**
18 **PROVIDER. (MEREDITH, P. 45) WHAT IS YOUR RESPONSE?**

19 A. The systems used by the industry, including by MCI (for TWCIS), are not
20 dependant on any such release of the number by the current or “losing” provider
21 of service, and MCI (for TWCIS) would not prevent the end user from moving to
22 another provider.

1 **Q. DO YOU HAVE ANY MORE COMMENTS TO MAKE ABOUT MR.**
2 **MEREDITH’S STATEMENTS CONCERNING MCI’S PROVISION OF**
3 **LOCAL NUMBER PORTABILITY?**

4 A. Yes. First, Mr. Meredith states that “an argument can be made” that the way MCI
5 plans to do number portability would violate an LNP criteria because the same
6 end user will not retain the number both before and after the port and “the end
7 user must be in the same location before and after the port.” (Meredith, p. 44) The
8 way MCI and TWCIS, however, plan to do number portability, the same end user
9 will retain the number both before and after the port and he or she will be in the
10 same location before and after the port. As an aside, the way Hargray Telephone
11 is doing its VoIP service does violate Mr. Meredith’s LNP criteria as end users
12 can share telephone numbers and numbers are not associated with the pre-port
13 location, but may become mobile.⁵

14 Next, Mr. Meredith suggests that “the end user must have telecommunications
15 service before and after the port.” Whether or not a TWCIS end user receives
16 “telecommunications service” is within the FCC jurisdiction and has not yet been
17 determined. Thus, the premise upon which Mr. Meredith’s reaches his conclusion
18 in this regard is flawed and, further, it is not within the Commission’s jurisdiction
19 to make a finding on the premise. Again, as an aside, Hargray Telephone’s VoIP
20 service would be comparable to that of TWCISs’ and it is doing number
21 portability.

⁵ See, rebuttal exhibit GJD-1.

1 Finally, Mr. Meredith also suggests that “the end user must be switching from a
2 telecommunications carrier to another telecommunications carrier.” In this
3 regard, MCI is a telecommunications carrier and the end user is switching
4 telecommunications service from one telecommunications carrier to another
5 telecommunications carrier (i.e. from the RLEC to MCI). Conversely, it has not
6 been determined if Hargray is a telecommunications carrier when it offers its
7 VoIP service yet it is porting numbers. Hargray certainly is not being treated as a
8 telecommunications carrier when it provides its VoIP service and bypasses access
9 charges.

10 There are no rules or laws that prohibit MCI from doing what it proposes
11 to do, and to adopt the RLECs’ proposed language would violate that spirit, intent
12 and letter of the Act. MCI’s proposed language should be adopted.

13

14 3. DOES THE AGREEMENT NEED TO REFER TO VOIP?

15

16

17

18 ISSUE #7

19

20

Issue: Does the contract need a definition of Internet Protocol
Connection? (GT&C, Glossary, section 2.28)

21

22

MCI position: No. MCI is proposing to eliminate the VoIP
discussions in the interconnection attachment that
reference this definition developed by the ITCs and
not from any FCC order or industry standards
document.

23

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ILEC position: Yes. This definition is needed as ITCs want to
retain VoIP language and this describes where they
believe the ISP traffic is originated and terminated.

29

30

31

1 **Disputed Language: INTERNET PROTOCOL CONNECTION (IPC).**
2 **The IPC is the connection between the ISP and the**
3 **customer where end user information is originated or**
4 **terminated utilizing internet protocol.**

5
6 **ISSUE #9**
7

8 **Issue:** Should the contract define VoIP and provide for special
9 treatment of VoIP traffic? (GT&C, section 2.46)

10
11 **MCI position:** MCI is providing telecommunications services
12 under this contract and plans to treat all but ISP
13 traffic carried on its network the same way in terms
14 of rating traffic based on the physical location of the
15 end user. There is no need for the contract to
16 describe how VoIP traffic will be or has been rated
17 by the FCC.

18
19 **ILEC position:** SC ITCs want to specify in detail how VoIP traffic
20 should be treated in this contract.

21
22 **Disputed Language: VOIP OR IP-ENABLED TRAFFIC.**

23 **VoIP means any IP-enabled, real-time, multidirectional**
24 **voice call, including, but not limited to, service that**
25 **mimics traditional telephony. IP-Enabled Voice Traffic**
26 **includes:**

27 **Voice traffic originating on Internet Protocol**
28 **Connection (IPC), and which terminates on the Public**
29 **Switched Telephone Network (PSTN); and**

30 **Voice traffic originated on the PSTN, and which**
31 **terminates on IPC; and**

32 **Voice traffic originating on the PSTN, which is**
33 **transported through an IPC, and which ultimately,**
34 **terminates on the PSTN.**

35

36 **ISSUE #11**
37

38 **Issue:** Should references to VoIP traffic be included in the
39 contract? (Interconnection, section 1.2)

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MCI position: No. MCI is a telecommunications service provider. It is not proposing to treat VoIP traffic any differently than any other non-ISP dial-up traffic, which is rating the service by physical location of the originating and terminating points. Carving out VoIP and calling some information and some telecommunications services is confusing and unnecessary.

ILEC position: ITCs do not think they should provide interconnection to carriers that predominant carry VoIP and want to make clear by trying to define what VoIP services are information services versus telecommunications services in the contract. They also want to emphasize the rating by physical location for covered VoIP traffic.

Disputed Language: ILEC has no obligation to establish interconnection service arrangements to enable CLEC to solely provide Information Services. CLEC agrees that it is requesting and will use this arrangement for purposes of providing mainly Telecommunications Services and that any provision of Information Service by CLEC **(including VoIP Services)** will be incidental to CLEC’s provision of Telecommunications Services. **The classification of certain forms of VoIP (as defined in this Agreement) as either Telecommunications Service or Information Service has yet to be determined by the FCC. Accordingly, ILEC has no obligation to establish an interconnection service arrangement for CLEC that primarily is for the provision of VoIP.**

ISSUE #12

Issue: Should there be language treating VoIP differently than other non- ISP-bound traffic? (Interconnection, section 1.6)

MCI position: No. VoIP does not need to be singled out.

ILEC position: Yes. ITCs want to emphasize how physical location will be used to rate VoIP traffic.

Disputed Language: **Jurisdiction of VoIP Traffic, as defined in this Agreement, is determined by the physical location of the End User Customer originating VoIP Traffic, which is**

1 the geographical location of the actual Internet Protocol
2 Connection (IPC), not the location where the call enters
3 the Public Switched Telephone Network (PSTN). In
4 addition, the FCC has ruled that phone-to-phone calls
5 that only utilize IP as transport are Telecommunication
6 Services. Jurisdiction of such calls shall be based on the
7 physical location of the calling and called End User
8 Customer. Signaling information associated with IP-
9 Enabled Voice Traffic must comply with Sections 3.5
10 and 3.6 of this Interconnection Attachment.
11

12 **Q. MCI HAS NOT PROPOSED LANGUAGE WITH REGARD TO VOIP.**
13 **WHY?**

14 A. First, and as discussed above, the RLECs must interconnect with MCI, and must
15 terminate traffic that originates with VoIP. There is no reason to distinguish IP-
16 originated traffic for purposes of interconnection from other traffic on the PSTN.
17 Further, even though these RLECs are providing VoIP service themselves, they
18 have not distinguished or defined VoIP traffic in their interconnection agreements
19 with BellSouth. There is no reason to distinguish such traffic here.

20 Second, VoIP is within the jurisdiction of the FCC. The FCC has defined
21 and shall continue to define the rules with regard to inter-carrier compensation for
22 VoIP. It is critical that these rules are defined, moreover, in a national context.
23 MCI as a matter of policy maintains that VoIP is enhanced services that are
24 appropriately terminated on local interconnection trunks. What MCI has acceded
25 to, however, for the limited purpose of entering into this interconnection
26 agreement, is that all non-ISP-bound traffic [including VoIP and IP enabled
27 traffic] shall be treated similarly for purposes of inter-carrier compensation.
28 Notwithstanding, the RLECs – at times even appearing to agree with MCI's

1 policy positions – ignore MCI’s negotiating position in this arbitration and
2 continue to distinguish VoIP traffic from TDM-switched traffic, and refer to the
3 “uncertainty in the industry” as a reason for their proposed language. Given what
4 MCI has acceded to with regard to this agreement, there is no reason for the
5 RLECs to continue to litigate these points, and, as such, the “precision and
6 exactness” that the RLECs characterize their proposed VoIP language as
7 possessing not only impinges upon the FCC’s jurisdiction, it is unnecessary, as
8 the RLECs have tacitly admitted by not including such terms in their agreements
9 with BellSouth.

10 **Q. IF IT WILL RESOLVE THESE ISSUES, DOES MCI NOW PROPOSE**
11 **LANGUAGE?**

12 A. Yes. MCI would still propose removal of the language that the RLECs proposed
13 for sections 1.1 and 1.6 of the interconnection attachment. At the same time, MCI
14 would accept the RLECs’ proposed definition of VoIP (which is in the general
15 terms and conditions attachment) and, with a change to the RLECs’ proposed
16 definition of IPC (which is also in the general terms and conditions), accept that
17 definition, too, if the Commission adopts the following language:

18
19
20 The Parties disagree on the regulatory treatment of VoIP/IP-Enabled services.
21 The Parties will incorporate FCC rulings and orders governing compensation for
22 VoIP/IP-Enabled services into the agreement once effective. Until such time,
23 VoIP/IP-Enabled traffic will be treated similarly to non-ISP-bound traffic covered
24 by this agreement.

25
26 With regard to the RLECs’ definition of IPC, it states:
27

28 2.26 INTERNET PROTOCOL CONNECTION (IPC).

1 The IPC is the connection between the ISP and the customer where end
2 user information is originated or terminated utilizing internet protocol.

3
4 This definition should be modified so that instead of a reference to “ISP,” the
5 reference should be made to “IP-enabled service,” since the definition of IPC is
6 not used with regard to ISP-bound traffic.

7
8 **Q. IS MCI’S CONCESSION TO TREAT ALL NON-ISP TRAFFIC THE**
9 **SAME FOR INTERCARRIER COMPENSATION PURPOSES MORE**
10 **THAN MCI SHOULD BE REQUIRED TO DO?**

11 A. Yes. As explained in Hargray’s video for its Voice over the Internet (VOI)
12 service,⁶ a VoIP call from Savannah to Pittsburgh, “is a local call for everyone
13 involved.” As such, Hargray is using its VoIP service to bypass interstate and
14 intrastate access charges. For the RLECs to argue that other LECs should not be
15 permitted to do the same is disingenuous. Further, the concession MCI has
16 offered, to treat all non-ISP-bound traffic the same for inter-carrier compensation
17 purposes, places its VoIP service offering, and that of TWCIS, at a significant and
18 unreasonable competitive disadvantage versus the service Hargray offers, until
19 and unless the FCC issues rules on this matter and the rules are incorporated into
20 the RLEC/MCI agreement. As such, if the Commission does choose to rule on
21 this matter it should reject the RLECs’ proposed language and find that the rates,
22 terms and conditions concerning the exchange of IP traffic are within the FCC’s
23 jurisdiction.

24

⁶ See, rebuttal exhibit GJD-1.

1 **B. BILLING NOTICES AND PAYMENT DISPUTES**
2

3 **ISSUE #4**
4

5 **Issue:** Should parties be required to keep providing service to one
6 another during dispute resolution over payment for service?
7 (GT&C, Section 13.3.1)

8
9 **MCI position:** Yes. MCI believes that ITCs should not be able to
10 disrupt service to customers during the pendency of
11 a dispute over billing as this language would allow.
12 The ITCs should be allowed to discontinue service
13 only if MCI loses the dispute and payment is not
14 being made. The ITCs can petition the Commission
15 to discontinue service and disrupt end users if MCI
16 is viewed as abusing dispute process to not pay
17 bills.

18
19 MCI believes that requiring escrow payments of
20 disputed amounts is a burden it should not have to
21 bear if the ILEC is wrongfully or inaccurately
22 billing it. The dispute process can take a great deal
23 of time in reaching a resolution and MCI cannot
24 agree to pay monies out that it does not believe it
25 owes.

26
27 **ILEC position:** ITCs would agree if MCI would pay into escrow account
28 during dispute. But the ITC still believe they should be able
29 to cut off service during a billing dispute.

30
31 **Disputed Language:** Continuous Service. The Parties shall continue providing
32 services to each other during the pendency of any dispute
33 resolution procedure (**other than a dispute related to**
34 **payment for service**), and the Parties shall continue to
35 perform their payment obligations including making
36 payments in accordance with this Agreement.

37
38 **Q. THE RLECS STATE, IN SUPPORT OF THEIR ASSERTION THAT**
39 **THEY SHOULD DISCONNECT MCI FOR NON-PAYMENT OF**
40 **DISPUTED CHARGES, THE “NATURE OF DISPUTES AMONG**
41 **CARRIERS IS MUCH DIFFERENT FROM A SITUATION WHERE AN**

1 **END USER DISPUTES” A BILL? (MEREDTH, P. 7) ARE THE**
2 **CONSEQUENCES OF DISCONNECTION IN EITHER SITUATION**
3 **DIFFERENT?**

4 A. No. The effect of disconnection of a carrier is the same as the effect of
5 disconnection of an end user: in both instances, the end user is without service.
6 In either situation, the resort by a party to this interconnection agreement to self-
7 help has dire consequences for consumers and businesses.

8 **Q. THE RLECS CITE THE THREAT OF BANKRUPTCY AS A REASON**
9 **THEY SHOULD BE ABLE TO RESORT TO SELF-HELP. (MEREDITH,**
10 **P. 7) HOW DO YOU RESPOND?**

11 A. The threat of bankruptcy has always existed and will always exist. One could
12 easily argue that the RLECs are more at risk of future bankruptcy than MCI, and
13 that, from a public policy perspective, given the availability of wireless and cable
14 telephony, this should not worry the Commission. As for MCI specifically,
15 WorldCom filed for Chapter 11 bankruptcy protection in 2002 and, with the
16 reorganized entity having emerged recently from bankruptcy, MCI’s parent is a
17 highly-regulated solvent enterprise. Moreover, since carriers typically do not
18 secure their claims against other carriers, there would be no limitation on a
19 carriers’ ability, pursuant to the language proposed by the RLECs, to disconnect
20 services when unsecured debts have not been paid pending resolution of a billing
21 dispute.

22 **Q. THE RLECS STATE THAT THEY SHOULD BE ABLE TO**
23 **DISCONNECT MCI DURING A BILLING DISPUTE, SINCE THE RLECS**

1 **ARE MUCH SMALLER THAN MCI. (MEREDITH, PP. 7-8) IS THAT A**
2 **LOGICAL CONCLUSION?**

3 A. No. The RLECs' language would allow it to cut off service to the MCI pending
4 resolution of a dispute. This is not reasonable. Moreover, while the amount due,
5 according to the RLECs, may "seem a small billing dispute to MCI," it is illogical
6 for the RLECs to argue in effect that the consequences of disconnection would
7 fall disproportionately on the RLECs' end users, rather than on MCI's end users.

8

9 **Q. THE RLECS CONTINUE TO SUGGEST PAYMENT OF DISPUTED**
10 **AMOUNTS INTO ESCROW BECAUSE IT WOULD ALLOW THE**
11 **PARTIES TO "SHARE THE BURDEN." (MEREDITH, P. 9) DO YOU**
12 **AGREE?**

13 A. No. First, no language has been proposed by the RLECs regarding escrow;
14 consequently, the Commission has no such language before it for resolution and
15 MCI is unable to respond specifically to the general assertions made by the
16 RLECs in this regard. Second, and in any event, as the RLECs admit, the process
17 of resolving disputes takes time. Such is the nature of legal process, as
18 distinguished from self-help. Escrow cannot be deemed a "fair" or "shared"
19 burden on a carrier if the other party is being wrongfully or inaccurately billed.

20

21 **C. IDENTIFICATION OF THE CALLING PARTY**

22

23 **ISSUE #3**

24

Issue: Should companies be required to provide JIP information?
(GT& C, section 9.5)

MCI position: No. This is not a mandatory field. No other ILEC has asked that MCI provide this information, let alone on 90% of calls. The ATIS Network Interconnection Interoperability Forum is still working on rules for carriers choosing to populate this field for VOIP traffic and wireless carriers. The revised instructions for JIP for landline carriers was only released in December. MCI does not oppose putting “OR” as a condition of providing this or CPN on calls. But there is only a recognized industry standard to provide CPN currently.

ILEC position: SC ITCs believe this information is necessary to establish the jurisdiction of calls.

Disputed Language: The Parties shall each perform traffic recording and identification functions necessary to provide the services contemplated hereunder. Each Party shall calculate terminating duration of minutes used based on standard automatic message accounting records made within each Party's network. The records shall contain the information to properly assess the jurisdiction of the call including ANI or service provider information necessary to identify the originating company, including **the JIP and** originating signaling information. The Parties shall each use commercially reasonable efforts, to provide these records monthly, but in no event later than thirty (30) days after generation of the usage data.

ISSUE #14

Issue: Should Parties be required to provide (a) CPN and JIP; and (b) pay access charges on all unidentified traffic? (Interconnection, section 2.7.7)

MCI position: MCI (a) is willing to provide CPN or JIP (but not both as the latter is an optional SS7 parameter. (No other ILEC has proposed that MCI must provide JIP) and (b) believes that all unidentified traffic should be priced at same ratio as identified traffic. A price penalty should not be applied for something MCI does not control. MCI is open to audits

1 and studies by either Party if one or the other thinks the
2 10% or more of traffic missing CPN information is an
3 effort to avoid access charges.
4

5 **ILEC position:** SC ITCs believe they need JIP and CPN data 90% of the
6 time to determine jurisdiction and want to apply a penalty
7 of paying access charges to encourage its provision when
8 levels of unidentified traffic are above 10%.
9

10 **Disputed Language:** If either Party fails to provide accurate If either Party fails
11 to provide accurate CPN (valid originating information) or
12 **and** Jurisdiction Information Parameter (“JIP”) on at least
13 ninety percent (90%) of its total originating INTRALATA
14 Traffic, then traffic sent to the other Party without CPN or
15 JIP (valid originating information) will be handled in the
16 following manner. All unidentified traffic will be treated
17 as having the same jurisdictional ratio as the ninety
18 (90%) of identified traffic. The remaining 10 percent
19 (10%) of unidentified traffic will be treated as having
20 the same jurisdictional ratio as the ninety (90%) of
21 identified traffic. If the unidentified traffic exceeds ten
22 percent (10%) of the total traffic, all the unidentified
23 traffic shall be billed at a rate equal to ILEC’s
24 applicable access charges. The originating Party will
25 provide to the other Party, upon request, information to
26 demonstrate that Party’s portion of traffic without CPN
27 or JIP traffic does not exceed ten percent (10%) of the
28 total traffic delivered. The Parties will coordinate and
29 exchange data as necessary to determine the cause of the
30 CPN or JIP failure and to assist its correction.
31

32 **ISSUE #16**

33
34 **Issue:** Should Parties have to provide the specified signaling
35 parameters on all calls? (Interconnection, section 3.6)

36
37 **MCI position:** No. Percentages for CPN have been set above and
38 JIP is not mandatory. MCI will agree not to alter
39 parameters received from others, but it cannot
40 commit to more than 90% CPN.
41

42 **ILEC position:** Yes. This information should be provided on all calls even
43 though percentages set elsewhere are less than 100%.
44

45 **Disputed Language:** Signaling Parameters: ILEC and CLEC are required to
46 provide each other with the proper signaling information

(e.g. originating accurate Calling Party Number, **JIP** and destination called party number, etc.) pursuant 47 C.F.R. § 64.1601, to enable each Party to issue bills in an accurate and timely fashion. All Common Channel Signaling (CCS) signaling parameters will be **passed along as received provided** including CPN, JIP, Originating Line, Calling party category, Charge Number, etc. All privacy indicators will be honored

Q. DO THE RLECs' ICAs WITH BELLSOUTH REQUIRE THE PROVISION OF JURISDICTION INFORMATION PARAMETER ("JIP")?

A. No.

Q. DO THE RLECs' ICAs WITH BELLSOUTH CONTAIN PROVISIONS THAT REQUIRE CALLING PARTY NUMBER ("CPN") TO BE USED TO RATE TRAFFIC?

A. Yes.

Q. WILL MCI PROVIDE THE RLECs WITH JIP?

A. Yes. However, as I stated in my direct testimony it will be the JIP associated with MCI's class 5 switch that is used (and these switches are in Atlanta or Charlotte), and there are many reasons JIP should not be used to rate traffic.

Q. IT APPEARS FROM MS. WIMER'S TESTIMONY THAT THE RLECS DO NOT PLAN ON CHARGING ACCESS CHARGES ON INTERLATA TOLL TRAFFIC, BUT PLAN THAT ALL SUCH TRAFFIC SHOULD BE TREATED AS INTERCONNECTION TRAFFIC AND HANDLED VIA "BILL AND KEEP" (SEE WIMER, PP. 4-5). IS THIS STANDARD INDUSTRY PRACTICE?

1 A. No. Typically, intraLATA toll traffic is analyzed based on the CPN and Called
2 Party Numbers (“CdPN”), which determine if the jurisdiction of calls is “Local”
3 or “intraLATA toll,” and access charges apply to the intraLATA toll traffic. The
4 RLECs should not be permitted to pick and choose the types of traffic that access
5 charges apply to and don’t apply to. This activity would open up a new form of
6 rate arbitrage and would not be fair. The RLECs’ position that intraLATA toll
7 traffic can be treated as reciprocal compensation “without a per minute of use
8 charge” begs the question: if intraLATA toll traffic can be handled via bill and
9 keep, why can’t interLATA toll traffic be handled as bill and keep? The RLECs
10 should not be permitted to change the rules only where such changes would
11 financially benefit them.

12

13 **Q. IT APPEARS FROM MS. WIMER’S TESTIMONY THAT THE RLECs**
14 **DESIRE MCI TO PROVIDE A UNIQUE JIP FOR EVERY LATA**
15 **SERVED BY EACH OF ITS LOCAL SWITCHES. (WIMER P. 15). CAN**
16 **MCI’S SWITCHES DO THIS?**

17

18 A. No. MCI’s local switches provide a single JIP. Doing so permits MCI’s local
19 switches to serve a large geographic area. As explained in my direct testimony, it
20 would violate the FCC’s Triennial Review Remand Order (“TRRO”) for this

1 Commission to require MCI to provide a unique JIP for every LATA each of its
2 local switches serve.⁷

3

4 **Q. HAVE THE RLECs' WITNESSES PROVIDED ANY COMPELLING**
5 **REASON FOR NEW PRECEDENT TO BE CREATED AND FOR MCI TO**
6 **BE REQUIRED TO PROVIDE A UNIQUE JIP FOR EACH LATA**
7 **SERVED BY ITS SWITCHES?**

8 A. No. The RLEC witnesses cite no law or rule that requires MCI to provide a
9 unique JIP for each LATA served by its switches and do not refute that the use of
10 JIP will not solve the unidentifiable traffic problem they seek to address.

11

12 **Q. WILL MCI PROVIDE A UNIQUE JIP FOR EVERY LATA SERVED BY**
13 **ITS LOCAL SWITCHES?**

14 A. No. As such, if the Commission were to permit the RLECs' proposed language in
15 this regard it would have the same effect as denying MCI the ability to
16 interconnect with these RLECs.

17 **Q. DO THE RLECs' ICAS WITH BELL SOUTH REQUIRE THE PROVISION**
18 **OF A UNIQUE JIP FOR EVERY LATA SERVED BY A LOCAL SWITCH,**
19 **OR EVEN MENTION JIP?**

20 A. No.

⁷ See, In the Matter of Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, WC Docket No. 04-313, CC Docket No. 01-338, FCC 04-290, Order on Remand, February 4, 2005, paragraphs 207, 209, 222 and 223.

1 **Q. DO THE RLECs' ICAs WITH BELLSOUTH PROVIDE FOR THE USE**
2 **OF CPN AND CdPN TO RATE TRAFFIC?**

3 A. Yes.

4 **Q. ARE THE PROVISIONS PROPOSED BY MCI FOR TRAFFIC RATING**
5 **IN THIS ARBITRATION CONSISTENT WITH THE PROVISIONS**
6 **CONTAINED IN THE RLECS' AGREEMENTS WITH BELLSOUTH?**

7 A. Yes.

8 **Q. ARE THE PROVISIONS PROPOSED BY THE RLECS FOR TRAFFIC**
9 **RATING IN THIS ARBITRATION CONSISTENT WITH THE**
10 **PROVISIONS CONTAINED IN THEIR AGREEMENTS WITH**
11 **BELLSOUTH?**

12 A. No.

13 **Q. DO THE RLECS' AGREEMENTS WITH BELLSOUTH CONTAIN**
14 **PROVISIONS TO HANDLE UNIDENTIFIABLE TRAFFIC?**

15 A. Yes. The RLECs' ICAs with BellSouth contain provisions that require
16 NPA/NXXs to be utilized in such a way so that local traffic can be distinguished
17 from IntraLATA toll traffic, "regardless of the transport protocol method"⁸
18 This is what MCI has agreed to do in this proceeding for non-ISP-Bound traffic.
19 As such, the RLECs' positions on these issues are unreasonable and MCI's
20 proposed ICA language should be adopted.

⁸ See, Hargray ICA at Attachment 3, section 6.2 and 3.2, Home ICA with BellSouth attachment 3, section 8.1 and 5.2 and PBT ICA with BellSouth, attachment 3, section 6.2.

1 **Q. IS CPN, AND NOT JIP, STILL THE INDUSTRY STANDARD?**

2 A. Yes. Moreover, back office systems for billing, rating, and auditing are designed
3 based on CPN, not on JIP. MCI will not alter CPN. Except for ISP-bound calls,
4 the CPNs the RLECs receive as local/EAS calls should have addresses associated
5 with them in the 911 databases so the ILECs can check if they have concerns they
6 are not local. If MCI's customers involved in local calls with the RLECs do not
7 have their address in the database MCI would want to hear about it as this would
8 be a significant customer safety problem. Further, the phantom traffic issue that
9 the ILECs are concerned about is an open issue in the FCC's intercarrier
10 compensation proceeding and this is another reason the SC PSC should not adopt
11 the ITC's proposal on moving away from the national historical practice of using
12 CPNs for rating calls. The FCC may impose a different national methodology to
13 deal with all types of traffic that may or may not involve using multiple JIPs per
14 switch and MCI would be willing to amend or modify its ICAs with these RLECs
15 if such action occurs and warrants.

16 **D. INTERCARRIER COMPENSATION FOR ISP-BOUND TRAFFIC**
17 **WITH VIRTUAL NXX CODES,**
18 **AND FOR OUT-OF-BALANCE TRAFFIC**

19
20 **ISSUE #8**

21
22 **Issue:** Is ISP traffic in the Commission's or FCC's jurisdiction in
23 terms of determining compensation when FX or virtual
24 NXX service is subscribed to by the ISP? (GT&C,
25 Glossary, sections 2.27, 2.30 and 2.36)

26
27 **MCI position:** See Issue No. 10 (b). ISP traffic is in the FCC's jurisdiction
28 and subject to reciprocal compensation treatment pursuant
29 to its ISP Remand Order as amended by the CoreCom
30 decision. The Texas PUC recently clarified that its order

1 applying access charges to CLEC FX traffic only applied to
2 non-ISP traffic and that the FCC's ISP Remand order
3 applies to ISP traffic. While MCI believes that it is
4 discriminatory to allow ILECs to rate their FX and virtual
5 NXX traffic as local when CLECs are not allowed to do the
6 same, it will not litigate this issue, as concerns the ITCs, for
7 non-ISP traffic in light of the Commission's previous
8 decisions. However, MCI reserves the right to have its FX
9 and virtual NXX services rated as local if the FCC
10 preempts the subset of states that have inconsistent rulings
11 on the rating of CLEC FX or virtual NXX services.
12

13 **MCI Language:**

14 INTRALATA TRAFFIC Telecommunications traffic that
15 originates and terminates in the same LATA, including but
16 not limited to IntraLATA toll, ISP bound and Local/EAS.
17 *ISP bound traffic will be rated based on the originating*
18 *and terminating NPA-NXX.*

19 ISP-BOUND TRAFFIC

20
21 ISP-Bound Traffic means traffic that originates from or is
22 directed, either directly or indirectly, to or through an
23 information service provider or Internet service provider
24 (ISP) *that may be physically located in the Local/EAS*
25 *area of the originating End User Customer or has*
26 *purchased FX service from the CLEC. The FCC has*
27 *jurisdiction over ISP traffic and sets the rules for*
28 *compensation for such traffic*
29

30 LOCAL/EAS TRAFFIC

31
32 Any call that originates from an End User Customer
33 physically located in one exchange and terminates to an
34 End User Customer physically located in either the same
35 exchange or other mandatory local calling area associated
36 with the originating End User Customer's exchange as
37 defined and specified in ILEC's tariff. *ISP-bound traffic*
38 *may be carried on local interconnection trunks but will be*
39 *rated based on the originating and terminating NPA-*
40 *NXX)*
41

42
43 **ILEC position:**

44 See Issue No. 10 (b)

45 The Commission's orders cover ISP-bound traffic in saying
46 access charges apply to virtual NXX traffic. ISP traffic

should be based on the physical location of the customer otherwise access charges apply.

ILEC Language:

INTRALATA TRAFFIC Telecommunications traffic that originates and terminates in the same LATA, including but not limited to IntraLATA toll, ISP bound and Local/EAS.

ISP-BOUND TRAFFIC

ISP-Bound Traffic means traffic that originates from or is directed, either directly or indirectly, to or through an information service provider or Internet service provider (ISP) **who is physically located in an exchange within the Local/EAS area of the originating End User Customer. Traffic originated from, directed to or through an ISP physically located outside the originating End User Customer's Local/EAS area will be considered switched toll traffic and subject to access charges.**

LOCAL/EAS TRAFFIC

Any call that originates from an End User Customer physically located in one exchange and terminates to an End User Customer physically located in either the same exchange or other mandatory local calling area associated with the originating End User Customer's exchange as defined and specified in ILEC's tariff.

ISSUE #10(B)

Issue:

Should MCI have to provide service (b) only to End Users physically located in the same LATA to be covered by this agreement? (Interconnection, section 1.1)

MCI position:

(b) No. As stated with regard to issue #8, ISP-bound traffic is under the FCC's jurisdiction, and it never said its ISP reciprocal compensation orders do not apply to virtual NXX traffic. FX/ISP provider customers do not have to be physically located in the LATA to be treated the same as voice traffic. The FCC has established a compensation regime for ISP traffic that does not require payment of access charges.

ILEC position: MCI must be providing service directly to End Users physically located in the LATA. No law says ITCs cannot limit interconnection agreements to non-wholesale arrangements. Also, the Commission’s rulings on “virtual NXX traffic” apply to ISP-bound traffic too. The FCC’s ISP Remand Order never discussed ISP FX arrangement specifically so ITCs do not believe the FCC’s compensation regime for ISP-bound traffic applies.

Disputed Language: This Interconnection Attachment sets forth specific terms and conditions for network interconnection arrangements between ILEC and CLEC for the purpose of the exchange of IntraLATA Traffic that is originated by an End User Customer of one Party and is terminated to an End User Customer of the other Party, **where each Party directly provides Telephone Exchange Service to its End User Customers physically located in the LATA.** This Agreement also addresses Transit Traffic as described in Section 2.2 below. This Attachment describes the physical architecture for the interconnection of the Parties facilities and equipment for the transmission and routing of Telephone Exchange Service traffic between the respective End User Customers of the Parties pursuant to **Sections 251 (a) and (b) of the Act.**

ISSUE #13

Issue: Should all intraLATA traffic be exchanged on a bill and keep basis or should reciprocal compensation apply when out of balance? (Interconnection, section 2.4)

MCI position: MCI believes reciprocal compensation rates should apply for ISP and non-ISP Local /EAS traffic if out of balance traffic (60/40). MCI believes the recent CoreCom ruling allows it to seek reciprocal compensation for ISP traffic in new markets.

ILEC position: ITCs believe all traffic should be bill and keep.

Disputed Language: The Parties agree to only route IntraLATA Traffic over the dedicated facilities between their networks. InterLATA Traffic shall be routed in accordance with Telcordia Traffic Routing Administration instruction and is not a provision of

1 this Agreement. Both Parties agree that compensation for
2 intraLATA Traffic shall be in the form of the mutual
3 exchange of services provided by the other Party with no
4 additional billing if the traffic exchange is in balance.
5 Traffic is considered out-of-balance when one Party
6 terminates more than 60 percent of total Local/EAS
7 traffic exchanged between the Parties. The Parties also
8 agree that the compensation for ISP-bound traffic when
9 out of balance is governed by the FCC's orders on
10 compensation for ISP-bound traffic, specifically (1) the
11 so-call ISP Remand Order [Intercarrier Compensation
12 for ISP-based Traffic, Docket No. 99-68, Order on
13 Remand and Report and Order, 16 FCC Rcd 9151 (2001)]
14 and (2) the modifications to that order made in the FCC's
15 decision on Core Communications' forbearance request
16 (Petition of Core Communications, Inc. for Forbearance
17 Under 47 U.S.C. Paragraph 161 (c) from Application of
18 the ISP Remand Order, WC Docket No. 03-171, released
19 October 18, 2004). Traffic studies may be requested by
20 either party to determine whether traffic is out of
21 balance. Such traffic studies will not be performed more
22 than four times annually. Should a traffic study indicate
23 that Local/EAS/ISP-bound traffic exchanged is out-of-
24 balance, either Party may notify the other Party that
25 mutual compensation between the Parties will commence
26 in the following month. The Parties agree that charges
27 for termination of Local/EAS and ISP-bound Traffic on
28 each Party's respective networks are as set forth in the
29 Pricing Attachment. related to exchange of such traffic
30 issued by either Party except as otherwise provided in
31 this Agreement.
32

33
34 **ISSUE #21**

35
36 **Issue:** What should the reciprocal compensation rate be for out-of-
37 balance Local/EAS or ISP-bound traffic? (Pricing, D)
38
39 **MCI position:** This is the rate set in the FCC's order on reciprocal
40 compensation rates.
41
42 **ILEC position:** No rate.
43
44 **Disputed Language:** \$0.0007

1

2 **Q. BASED ON THE RLECS' REBUTTAL TESTIMONY, WHAT APPEARS**
3 **TO BE THE NATURE OF THE DISAGREEMENT BETWEEN THE**
4 **PARTIES?**

5 A. The RLECs concede that the FCC has jurisdiction of ISP-bound traffic. They
6 concede that the FCC has concluded that ISP-bound traffic is "largely interstate."
7 They also concede that the FCC has determined the \$.0007 rate, paid by the
8 originating carrier to the terminating carrier, for ISP-bound traffic. The RLECs,
9 however, distinguish between ISP-bound traffic that is admittedly "interstate," but
10 is directed to modems within the local calling area of the calling party, and ISP-
11 bound traffic that is "interstate" and is directed to modems in a LATA other than
12 that of the calling party. In either instance, the RLECs, when originating the call,
13 incur the same costs, and in either instance MCI would have its point of
14 interconnection at the RLECs' switches and would incur the costs of the call
15 beyond that point. Yet the RLECs want access charges if the modem to which the
16 call is directed is outside the calling party's LATA, while conceding that they will
17 pay the \$.0007 rate to MCI if the call is directed to a modem inside the LATA.

18 **Q. DID THE FCC LIMIT THE APPLICATION OF ITS ISP REMAND**
19 **ORDER TO MODEMS LOCATED IN THE LOCAL CALLING AREA OF**
20 **THE CALLING PARTY?**

21 A. No, and it would have been absurd for it to have done so, given the goals of
22 encouraging the growth of advanced services, as well as given the "interstate"
23 nature of ISP-bound traffic, wherever it is directed. "Local calling area" is thus a

1 short-hand term used by the FCC for calls that, while “local” to the caller
2 (because of the NPA-NXX dialed), are nonetheless “interstate.”

3 **Q. THE RLECS STATE THAT CLECS HAVE CONTENDED THAT CALLS**
4 **TO ISPS ARE LIKE CALLS TO “PIZZA PARLORS” AND, THEREFORE,**
5 **ONLY ISP-BOUND TRAFFIC DIRECTED TO MODEMS WITHIN THE**
6 **LOCAL CALLING AREA IS SUBJECT TO THE FCC’S RATE.**
7 **(MEREDITH, P. 25) HOW DO YOU RESPOND?**

8 A. It is not clear to what Mr. Meredith refers, but several years ago CLECs
9 contended that calls to ISPs had two components, a telecommunications call
10 terminated by the LEC serving the ISP, and an information service component.
11 CLECs used various analogies to illustrate the telecommunications component for
12 the call, including the pizza parlor analogy. The FCC rejected the “two
13 component” concept and, instead, has characterized calls to ISPs as “information
14 access service” that, as stated above, falls within the FCC’s jurisdiction as
15 interstate traffic.

16 **Q. THE RLECS STATE THAT, AS REGARDS ISSUE #10(B), SINCE MCI**
17 **HAS STATED THAT THE PHYSICAL LOCATION OF THE END USER**
18 **CUSTOMERS CAN GOVERN THE JURISDICTION OF NON-ISP-**
19 **BOUND TRAFFIC, THE RLECS’ LANGUAGE, WHICH LIMITS**
20 **INTERCONNECTION TO THAT PROVIDED “DIRECTLY” TO END**
21 **USERS, SHOULD BE ADOPTED. (MEREDITH, P. 33) HOW DO YOU**
22 **RESPOND?**

1 A. These two matters do not go together. Although any “agreement” by MCI is as
2 discussed above with reference to VoIP traffic, determination of the jurisdiction
3 of the call for purposes of inter-carrier compensation is not the issue here. The
4 issue is whether the performance of the interconnection agreement should be
5 limited to services provided only to end user customers, rather than to carrier
6 customers. As discussed above, the agreement should not be so limited.

7 **Q. MR. MEREDITH SUGGESTS THAT TRAFFIC BOUND TO AN ISP**
8 **USING A VIRTUAL NXX CANNOT BE THE SUBJECT OF AN**
9 **INTERCONNECTION AGREEMENT. (MEREDITH, P. 33) WHAT IS**
10 **YOUR RESPONSE?**

11 A. Mr. Meredith is wrong. Further, the RLECs’ ICAs with BellSouth address the
12 treatment of ISP-bound interconnection traffic. PBT’s re-negotiated
13 interconnection agreement with BellSouth even goes so far as to say “The Parties
14 have been unable to agree upon whether dial-up calls to Information Service
15 Providers (‘ISPs’) should be considered Local Traffic” and specifically sets forth
16 that change of law provisions can be executed if the FCC implements new rules
17 on the treatment of ISP-bound traffic.⁹

18

19 As discussed with respect to issue #8, the FCC has stated that calls to ISPs are
20 “interstate” and within the FCC’s jurisdiction. Notwithstanding, the FCC has
21 always contemplated that such “interstate” calls are appropriately within the scope
22 of interconnection agreements, which deal with “local” traffic, and local

⁹ See, PBT renegotiated ICA with BellSouth, adoption exhibit 1, attachment 3, section 5.1.3.

1 interconnection trunks. Once again, the RLECs are drawing distinctions between
2 “interstate” traffic that goes to a modem physically located in the caller’s local
3 calling area, and “interstate” traffic that goes to a modem physically located
4 outside of the caller’s local calling area. There is no meaningful distinction
5 between the two, and to suggest that the FCC somehow meant to limit its rulings
6 to “interstate local” traffic defies logic. The effect of the ruling urged by the
7 RLECs would be that RLEC customers would not have access to sources of
8 advanced services other than from the RLECs themselves (and, of course, that the
9 RLECs’ customers also would not be interconnected to MCI’s end users or
10 TWCIS’ customers). This would be unreasonable and anti-consumer. As such,
11 MCI’s proposed ICA language in this regard should be adopted.

14 **E. RATES (OTHER THAN FOR ISP-BOUND TRAFFIC)**

16 **ISSUE #20**

18 **Issue:** Are the ordering charges just and reasonable? (Pricing, C
19 1, 2, & 4)

21 **MCI position:** No. They are very high where manual ordering is the only
22 choice. There would be no incentive for the ITCs to move
23 to electronic ordering systems with rates this high. Some
24 Bell companies set manual rates high to encourage CLECs
25 to use electronic ordering systems but with these ITCs MCI
26 has no cheaper alternative. Further, there is no reason to
27 charge a higher price for cancellations and change orders.
28 There should be no charge for cancellations because there
29 is no additional work being done. There should be a lower
30 charge not higher one for changes to the original order.
31 Usually it’s only one feature or a later due date being
32 sought at the customer’s request. The charge should be set
33 at \$15 for the original LSR and \$5 for changes. MCI also

1 did not see these rates until a week (Home and Farmers)
2 and two days (Hargray and PBT) before the arbitration
3 window closed despite repeated requests. So MCI has not
4 had time to negotiate changes with the ITCs. It has received
5 no cost studies to support any of these rates.
6

7 **MCI's Language:**

All ITCs:

8
9 Service Order (LSR)\$ **15.00** / request

10
11 Service Order Cancellation Charge

12 **No charge.**

13 Order Change Charge

14 **\$5.00.**

15
16 **ILEC position:**

ITCs believe their rates are reasonable, citing a
17 BellSouth \$22 rate for manual order.
18

19 **ILECs' Language:**

PBT:

20 Service Order (LSR) \$ **23.00 / request**

21
22 Service Order Cancellation Charge

23 **\$ 35.00 / request**

24
25 Order Change Charge

26 **\$35.00 / request**

27
28 Hargray:

29 Service Order (LSR) \$ **22.00 / request**

30
31 Service Order Cancellation Charge

32 **\$35.00 / request**

33
34 Order Change Charge

35 **\$35.00 / request**

36
37 Farmers:

38 Service Order (LSR) \$ **28.00 / request**

39
40 Service Order Cancellation Charge

41 **\$ 32.00 / request**

42
43 Order Change Charge

44 **\$32.00 / request**

45
46 Home:

1 Service Order (LSR) **\$22.00 / request**

2 Service Order Cancellation Charge

3 **\$35.00 / request**

4 Order Change Charge

5 **\$35.00 / request**

6
7
8
9
10
11 **Q. ARE THE RLECs REQUIRED TO COST-JUSTIFY THEIR PROPOSED**
12 **ORDERING CHARGES?**

13 A. Yes. The Act requires that interconnection charges be just, reasonable,
14 nondiscriminatory and cost-based.

15
16 **Q. DO THE RLECs ATTEMPT IN ANY WAY TO COST JUSTIFY THE**
17 **RATES THEY PROPOSE FOR SERVICE ORDERING, ORDER**
18 **CANCELLATION OR ORDER MODIFICATIONS?**

19 A. No.

20
21 **Q. CAN THE RATES THAT YOU PROPOSE FOR SERVICE ORDERING**
22 **BE FOUND BY THE COMMISSION TO BE COST-BASED?**

23 A. Yes. The rates I have proposed in this arbitration are in line with the rates the
24 Commission found to be cost-based in the BellSouth UNE rate case. At page 22
25 of her testimony, Ms. Wimer offers up the rates contained in other interconnection
26 agreements as support for the RLECs' rate proposal. However, there is no
27 evidence that the rates contained in the referenced interconnection agreements

1 were ever determined to be cost-based or if the rates proposed by the RLECs in
2 this arbitration are cost-based.

3

4 In fact, since the Commission has never had a UNE rate case for Verizon or
5 Sprint, we know that the Verizon and Sprint rates Ms. Wimer offers for
6 comparison have never been found to be cost-based. Further, since the BellSouth
7 rates Ms. Wimer offers for comparison are different than the rates ordered in
8 Commission Docket 2001-1089 on November 20, 2001, we know that these rates
9 also have not been found by the Commission to be cost-based. As such, MCI's
10 rate proposal in this regard is the only proposal in this proceeding that can be
11 deemed to be cost-based and compliant with the Act, and MCI's rate proposal
12 should be adopted.

13

14 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

15 **A. Yes.**

1 **CERTIFICATE OF SERVICE**

2
3 I, Betty J. DeHart of Woodward, Cothran & Herndon, Attorneys for MCI, Inc., do
4 hereby certify that I have served a copy of the Rebuttal Testimony of Greg Darnell by
5 causing to be deposited in a United States Postal Service mailbox copies of the same,
6 postage prepaid, addressed to the persons indicated below.
7

8
9 F. David Butler, Esquire
10 The Public Service Commission
11 State of South Carolina
12 Post Office Drawer 11649
13 Columbia, S.C. 29211
14

15 John M. Bowen, Jr., Esquire
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26 Robinson McFadden & Moore, P.C.
27 Post Office Box 944
28 Columbia, S.C. 29202
29

30
31 _____
32 Betty J. DeHart

33 SWORN to before me this

34
35 ____ day of _____, 2005.
36

37
38 _____(L.S.)
39 Notary Public for South Carolina
40 My Commission Expires: _____
41